

Introduced by Senator Liu

February 27, 2009

An act to amend Section 7950 of the Family Code, and to amend Sections 11402, 11460, 14005.28, and 16119 of, to add Section 16010.2 to, and to add Article 5.75 (commencing with Section 299.1) to Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code, relating to services for children, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 597, as introduced, Liu. Child welfare services, foster care services, and adoption assistance.

(1) Existing law provides for the out-of-home placement of children who are unable to remain in the custody and care of their parent or parents, and provides for a range of child welfare, foster care, and adoption assistance services for which these children may be eligible.

Existing federal law, the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351; the federal act) revises and expands federal programs and funding for certain foster and adopted children.

Under existing law, placement of a child should be made in the home of a relative, unless that placement would not be in the best interests of the child.

This bill would require the State Department of Social Services, or other entity responsible for a child's placement, to exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child, including any other adult relative suggested by the parent or parents, subject to exceptions due to family or domestic violence, as required in the federal act.

This bill would require the State Department of Social Services to take all necessary steps to provide counties with more direct access to information contained in the Federal Parent Locator Service, pursuant to the federal act, for purposes of providing child welfare services, foster care services, and adoption assistance.

(2) Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. The program is funded by a combination of federal, state, and county funds. Under existing law, AFDC-FC benefits are available, with specified exceptions, on behalf of qualified children under 18 years of age. Moneys from the General Fund are continuously appropriated to pay for the state's share of AFDC-FC costs.

Under existing law, in order to be eligible for AFDC-FC benefits, a child must be placed in one of 8 designated placements.

This bill would add to the eligible AFDC-FC placements, with respect to an otherwise eligible youth over 18 years of age, an independent, supervised home setting. By increasing the available placement options, the bill would make an appropriation. The bill would also increase county duties in administering the AFDC-FC Program, thus imposing a state-mandated local program.

Existing law requires foster care providers to be paid a per child per month rate in return for the care and supervision of the AFDC-FC child placed with them, and defines the term "care and supervision" for this purpose.

This bill would expand the definition of "care and supervision" to include travel costs for educational purposes.

(3) Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income persons receive health care benefits. Existing law requires the department, if, and to the extent that, all necessary federal approvals are obtained for federal financial participation, to implement a federal option to extend Medi-Cal benefits to independent foster care adolescents, as defined in federal law.

This bill would specify that if the department has exercised its option to extend Medi-Cal benefits to those independent foster care adolescents, the department, to the extent that federal financial participation is available, shall not require the independent foster care adolescent to complete any paperwork qualification or provide any other information

as a condition to continuing to receive the Medi-Cal benefits to which he or she is already entitled.

(4) Under existing law, the case plan is the foundation and central unifying tool in child welfare services. The components of the case plan include, when appropriate, a written description of the programs and services that will help a child, consistent with the child's best interests, prepare for the transition from foster care to independent living, for a child who is 16 years of age or older.

Existing law requires, when a child is placed in foster care, that the child's case plan include a summary of the health and education information or records, including mental health information or records, of the child.

This bill would require the State Department of Social Services, in consultation with pediatricians, health care experts, and experts in and recipients of child welfare services, and with the advice and assistance of the Child Welfare Council, to develop a plan for the ongoing oversight and coordination of health care services for a child in a foster care placement, consistent with the federal act.

(5) Existing law provides for the Adoption Assistance Program (AAP), to be established and administered by the State Department of Social Services or the county, for the purpose of benefiting children residing in foster homes by providing the stability and security of permanent homes. The AAP provides for the payment by the department and counties, of cash assistance to eligible families that adopt eligible children, and bases the amount of the payment on the needs of the child and the resources of the family to meet those needs.

Under existing law, at the time application for adoption of a child who is potentially eligible for Adoption Assistance Program benefits is made, and at the time immediately prior to the finalization of the adoption decree, the department or the licensed adoption agency, whichever is appropriate, is required to provide the prospective adoptive family with designated information.

This bill would additionally require the department or licensed adoption agency to provide information regarding the federal adoption tax credit for any individual who is adopting or considering adopting a child in foster care, in accordance with the federal act.

(6) Existing law declares the duty of the state to care for and protect the children that it places into foster care. Under existing law, the State Department of Social Services has various powers and duties relating

to ensuring that the needs of foster children are met by local child welfare agencies and foster care providers, including relative caregivers.

This bill would require the department to apply for a federal matching grant, known as a family connection grant, for the purpose of helping children who are in, or at risk of entering, foster care reconnect with family members, as provided for by a specified provision of federal law.

(7) Existing law provides for specified foster parent training programs in community colleges, funded from the Foster Children and Parent Training Fund.

Existing law requires the State Department of Social Services to develop and implement an enhanced statewide basic foster parent training program, beginning January 1, 1994.

Existing law also requires the department to select and award a grant to a private nonprofit or public entity for the purpose of establishing a statewide multipurpose child welfare training program to meet the needs of designated child welfare personnel.

This bill would require the department to ensure that all federal financial participation, in accordance with the federal act, is sought for training provided through the above training programs. The bill, to the extent that this federal financial participation is obtained, would require the described training programs to include Kin-GAP caregivers and child welfare agencies, as prescribed.

(8) This bill, if the Legislature enacts comprehensive legislation to expand foster care support beyond 18 years of age, as authorized by the federal act, would allow former foster youth who at 18 years of age decline to remain in foster care to reenter foster care up to their 21st birthday or at a lower age set by the Legislature, as specified. The bill would implement these provisions to the extent permitted by federal regulation.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 7950 of the Family Code is amended to read:

7950. (a) With full consideration for the proximity of the natural parents to the placement so as to facilitate visitation and family reunification, when a placement in foster care is being made, the following considerations shall be used:

(1) Placement shall, if possible, be made in the home of a relative, unless the placement would not be in the best interest of the child. Diligent efforts shall be made by an agency or entity to which this subdivision applies, to locate an appropriate relative. Before any child may be placed in long-term foster care, the court shall find that the agency or entity to which this subdivision applies has made diligent efforts to locate an appropriate relative and that each relative whose name has been submitted to the agency or entity as a possible caretaker, either by himself or herself or by other persons, has been evaluated as an appropriate placement resource. *The agency or entity to which this subdivision applies shall exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child, including any other adult relative suggested by the parent or parents, subject to exceptions due to family or domestic violence. This notification shall satisfy the requirements of Section 671(a)(29) of Title 42 of the United States Code.*

(2) No agency or entity that receives any state assistance and is involved in foster care placements may do either of the following:

(A) Deny to any person the opportunity to become a foster parent on the basis of the race, color, or national origin of the person or the child involved.

(B) Delay or deny the placement of a child into foster care on the basis of the race, color, or national origin of the foster parent or the child involved.

(b) Subdivision (a) shall not be construed to affect the application of the Indian Child Welfare Act (25 U.S.C. Sec. 1901 ~~and following~~; *et seq.*).

(c) Nothing in this section precludes a search for an appropriate relative being conducted simultaneously with a search for a foster family.

1 SEC. 2. Article 5.75 (commencing with Section 299.1) is added
2 to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
3 Code, to read:

4
5 Article 5.75. Relative Identification and Notification
6

7 299.1. The department shall take all necessary steps to provide
8 counties with more direct access to information contained in the
9 Federal Parent Locator Service, pursuant to Section 653(j) of Title
10 42 of the United States Code, for purposes of providing child
11 welfare services, foster care services, and adoption assistance.

12 299.2. In addition to any other notifications required by law,
13 within 30 days after a child has been removed from the custody
14 of his or her parent or parents, the department shall exercise due
15 diligence to identify and provide notice to all adult grandparents
16 and other adult relatives of the child, including any other adult
17 relative suggested by the parent or parents, subject to exceptions
18 due to family or domestic violence. This notification shall satisfy
19 the requirements of Section 671(a)(29) of Title 42 of the United
20 States Code.

21 SEC. 3. Section 11402 of the Welfare and Institutions Code,
22 as amended by Section 7 of Chapter 288 of the Statutes of 2007,
23 is amended to read:

24 11402. In order to be eligible for AFDC-FC, a child shall be
25 placed in one of the following:

26 (a) The approved home of a relative, provided the child is
27 otherwise eligible for federal financial participation in the
28 AFDC-FC payment.

29 (b) (1) The licensed family home of a nonrelative.

30 (2) The approved home of a nonrelative extended family
31 member as described in Section 362.7.

32 (c) A licensed group home, as defined in subdivision (h) of
33 Section 11400, provided that the placement worker has documented
34 that the placement is necessary to meet the treatment needs of the
35 child and that the facility offers those treatment services.

36 (d) The home of a nonrelated legal guardian or the home of a
37 former nonrelated legal guardian when the guardianship of a child
38 who is otherwise eligible for AFDC-FC has been dismissed due
39 to the child's attaining 18 years of age.

40 (e) An exclusive-use home.

1 (f) A licensed transitional housing placement facility, as
2 described in Section 1559.110 of the Health and Safety Code, and
3 as defined in Section 11400.

4 (g) An out-of-state group home, provided that the placement
5 worker, in addition to complying with all other statutory
6 requirements for placing a minor in an out-of-state group home,
7 documents that the requirements of Section 7911.1 of the Family
8 Code have been met.

9 (h) A licensed crisis nursery, as described in Section 1516 of
10 the Health and Safety Code, and as defined in subdivision (a) of
11 Section 11400.1.

12 (i) *With respect to an otherwise eligible youth over 18 years of*
13 *age, an independent, supervised home setting.*

14 ~~(i)~~

15 (j) This section shall remain in effect only until July 1, 2011,
16 and as of that date is repealed, unless a later enacted statute, that
17 is enacted before July 1, 2011, deletes or extends that date.

18 SEC. 4. Section 11402 of the Welfare and Institutions Code,
19 as amended by Section 8 of Chapter 288 of the Statutes of 2007,
20 is amended to read:

21 11402. In order to be eligible for AFDC-FC, a child shall be
22 placed in one of the following:

23 (a) The approved home of a relative, provided the child is
24 otherwise eligible for federal financial participation in the
25 AFDC-FC payment.

26 (b) (1) The licensed family home of a nonrelative.

27 (2) The approved home of a nonrelative extended family
28 member as described in Section 362.7.

29 (c) A licensed group home, as defined in subdivision (h) of
30 Section 11400, provided that the placement worker has documented
31 that the placement is necessary to meet the treatment needs of the
32 child and that the facility offers those treatment services.

33 (d) The home of a nonrelated legal guardian or the home of a
34 former nonrelated legal guardian when the guardianship of a child
35 who is otherwise eligible for AFDC-FC has been dismissed due
36 to the child's attaining 18 years of age.

37 (e) An exclusive-use home.

38 (f) A licensed transitional housing placement facility as
39 described in Section 1559.110 of the Health and Safety Code and
40 as defined in Section 11400.

(g) An out-of-state group home, provided that the placement worker, in addition to complying with all other statutory requirements for placing a minor in an out-of-state group home, documents that the requirements of Section 7911.1 of the Family Code have been met.

(h) *With respect to an otherwise eligible youth over 18 years of age, an independent, supervised home setting.*

~~(h)~~

(i) This section shall become operative on July 1, 2011.

SEC. 5. Section 11460 of the Welfare and Institutions Code is amended to read:

11460. (a) Foster care providers shall be paid a per child per month rate in return for the care and supervision of the AFDC-FC child placed with them. The department is designated the single organizational unit whose duty it shall be to administer a state system for establishing rates in the AFDC-FC program. State functions shall be performed by the department or by delegation of the department to county welfare departments or Indian tribes that have entered into an agreement pursuant to Section 10553.1.

(b) "Care and supervision" includes food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, ~~and~~ reasonable travel to the child's home for visitation, *and costs of travel for educational purposes.*

(1) For a child placed in a group home, care and supervision shall also include reasonable administration and operational activities necessary to provide the items listed in this subdivision.

(2) For a child placed in a group home, care and supervision may also include reasonable activities performed by social workers employed by the group home provider which are not otherwise considered daily supervision or administration activities.

(c) It is the intent of the Legislature to establish the maximum level of state participation in out-of-state foster care group home program rates effective January 1, 1992.

(1) The department shall develop regulations that establish the method for determining the level of state participation for each out-of-state group home program. The department shall consider all of the following methods:

(A) A standardized system based on the level of care and services per child per month as detailed in Section 11462.

1 (B) A system which considers the actual allowable and
2 reasonable costs of care and supervision incurred by the program.

3 (C) A system which considers the rate established by the host
4 state.

5 (D) Any other appropriate methods as determined by the
6 department.

7 (2) State reimbursement for the AFDC-FC group home rate to
8 be paid to an out-of-state program on or after January 1, 1992,
9 shall only be paid to programs which have done both of the
10 following:

11 (A) Submitted a rate application to the department and received
12 a determination of the level of state participation.

13 (i) The level of state participation shall not exceed the current
14 fiscal year's standard rate for rate classification level 14.

15 (ii) The level of state participation shall not exceed the rate
16 determined by the ratesetting authority of the state in which the
17 facility is located.

18 (iii) The level of state participation shall not decrease for any
19 child placed prior to January 1, 1992, who continues to be placed
20 in the same out-of-state group home program.

21 (B) Agreed to comply with information requests, and program
22 and fiscal audits as determined necessary by the department.

23 (3) State reimbursement for an AFDC-FC rate paid on or after
24 January 1, 1993, shall only be paid to a group home organized and
25 operated on a nonprofit basis.

26 (d) A foster care provider that accepts payments, following the
27 effective date of this section, based on a rate established under this
28 section, shall not receive rate increases or retroactive payments as
29 the result of litigation challenging rates established prior to the
30 effective date of this section. This shall apply regardless of whether
31 a provider is a party to the litigation or a member of a class covered
32 by the litigation.

33 (e) Nothing shall preclude a county from using a portion of its
34 county funds to increase rates paid to family homes and foster
35 family agencies within that county, and to make payments for
36 specialized care increments, clothing allowances, or infant
37 supplements to homes within that county, solely at that county's
38 expense.

39 SEC. 6. Section 14005.28 of the Welfare and Institutions Code
40 is amended to read:

1 14005.28. (a) To the extent federal financial participation is
2 available pursuant to an approved state plan amendment, the
3 department shall exercise its option under Section
4 ~~1902(a)(10)(A)(XV)~~ 1902(a)(10)(A)(ii)(XVII) of the federal Social
5 Security Act (42 U.S.C. Sec. ~~1396a(a)(10)(A)(XV)~~
6 1396a(a)(10)(A)(ii)(XVII)) to extend Medi-Cal benefits to
7 independent foster care adolescents, as defined in Section
8 ~~1905(w)(1)~~ 1905(w)(1) of the federal Social Security Act (42 U.S.C.
9 Sec. ~~1396d(w)(1)~~ 1396d(w)(1)).

10 (b) Notwithstanding Chapter 3.5 (commencing with Section
11 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
12 and if the state plan amendment described in subdivision (a) is
13 approved by the federal ~~Health Care Financing Administration~~
14 *Centers for Medicare and Medicaid Services*, the department may
15 implement subdivision (a) without taking any regulatory action
16 and by means of all-county letters or similar instructions.
17 Thereafter, the department shall adopt regulations in accordance
18 with the requirements of Chapter 3.5 (commencing with Section
19 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

20 (c) The department shall implement subdivision (a) on October
21 1, 2000, but only if, and to the extent that, the department has
22 obtained all necessary federal approvals.

23 (d) *If the department has exercised its option under Section*
24 *1902(a)(10)(A)(ii)(XVII) of the federal Social Security Act (42*
25 *U.S.C. Sec. 1396a(a)(10)(A)(ii)(XVII)) to extend Medi-Cal benefits*
26 *to independent foster care adolescents, as defined in Section*
27 *1905(w)(1) of the federal Social Security Act (42 U.S.C. Sec.*
28 *1396d(w)(1)), to the extent that federal financial participation is*
29 *available, at the time of initial eligibility or at annual*
30 *redetermination, the department shall not require the independent*
31 *foster care adolescent to complete any paperwork qualification*
32 *or to provide any other information as a condition of continuing*
33 *to receive the Medi-Cal benefits to which he or she is already*
34 *entitled.*

35 SEC. 7. Section 16010.2 is added to the Welfare and
36 Institutions Code, to read:

37 16010.2. The department, in consultation with pediatricians,
38 other health care experts, and experts in and recipients of child
39 welfare services, and with the advice and assistance of the Child
40 Welfare Council, shall develop a plan for the ongoing oversight

1 and coordination of health care services for a child in a foster care
2 placement. The plan shall ensure a coordinated strategy to identify
3 and respond to the health care needs of foster children, including
4 mental health and dental needs, consistent with Section 205 of the
5 federal Fostering Connections to Success and Increasing Adoptions
6 Act of 2008 (Public Law 110-351).

7 SEC. 8. Section 16119 of the Welfare and Institutions Code is
8 amended to read:

9 16119. (a) At the time application for adoption of a child who
10 is potentially eligible for Adoption Assistance Program benefits
11 is made, and at the time immediately prior to the finalization of
12 the adoption decree, the department or the licensed adoption
13 agency, whichever is appropriate, shall provide the prospective
14 adoptive family with information, in writing, on the availability
15 of Adoption Assistance Program benefits, with an explanation of
16 the difference between these benefits and foster care payments.
17 The department or the licensed adoption agency shall also provide
18 the prospective adoptive family with information, in writing, on
19 the availability of reimbursement for the nonrecurring expenses
20 incurred in the adoption of the Adoption Assistance Program
21 eligible child. The department or licensed adoption agency shall
22 also provide the prospective adoptive family with information on
23 the availability of mental health services through the Medi-Cal
24 program or other programs. *The department or licensed adoption*
25 *agency shall also provide information regarding the federal*
26 *adoption tax credit for any individual who is adopting or*
27 *considering adopting a child in foster care, in accordance with*
28 *Section 403 of the federal Fostering Connections to Success and*
29 *Increasing Adoptions Act of 2008 (Public Law 110-351).*

30 (b) The department or the licensed agency shall encourage
31 families that elect not to sign an adoption assistance agreement to
32 sign a deferred adoption assistance agreement.

33 (c) The department or the county, whichever is responsible for
34 determining the child's eligibility for the Adoption Assistance
35 Program, shall assess the needs of the child and the circumstances
36 of the family.

37 (d) (1) The amount of an adoption assistance cash benefit, if
38 any, shall be a negotiated amount based upon the needs of the child
39 and the circumstances of the family. There shall be no means test
40 used to determine an adoptive family's eligibility for the Adoption

1 Assistance Program. In those instances where an otherwise eligible
2 child does not require a cash benefit, Medi-Cal eligibility may be
3 established for the child, as needed.

4 (2) For purposes of paragraph (1), “circumstances of the family”
5 includes the family’s ability to incorporate the child into the
6 household in relation to the lifestyle, standard of living, and future
7 plans and to the overall capacity to meet the immediate and future
8 plans and needs, including education, of the child.

9 (e) The department or the licensed adoption agency shall inform
10 the prospective adoptive family regarding the county responsible
11 for providing financial aid to the adoptive family in an amount
12 determined pursuant to Sections 16120 and 16120.1.

13 (f) The department or the licensed adoption agency shall inform
14 the prospective adoptive family that the adoptive parents will
15 continue to receive benefits in the agreed upon amount unless one
16 of the following occurs:

17 (1) The department determines that the adoptive parents are no
18 longer legally responsible for the support of the child.

19 (2) The department determines that the child is no longer
20 receiving support from the adoptive family.

21 (3) The adoption assistance payment exceeds the amount that
22 the child would have been eligible for in a licensed foster home.

23 (4) The adoptive parents demonstrate a need for an increased
24 payment.

25 (5) The adoptive parents voluntarily reduce or terminate
26 payments.

27 (6) The adopted child has an extraordinary need that was not
28 anticipated at the time the amount of the adoption assistance was
29 originally negotiated.

30 SEC. 9. The State Department of Social Services shall do all
31 of the following:

32 (a) Apply to the federal Secretary of Health and Human Services
33 for a family connection grant for the purpose of helping children
34 who are in, or at risk of entering, foster care reconnect with family
35 members, as provided for in Section 627 of Title 42 of the United
36 States Code.

37 (b) (1) Ensure that all federal financial participation, in
38 accordance with Section 674(a)(3)(B) of Title 42 of the United
39 States Code, is sought for training provided through the Foster
40 Children and Parent Training Fund pursuant to Sections 903.7 and

1 903.8 of the Welfare and Institutions Code and the child welfare
2 training program pursuant to Article 2 (commencing with Section
3 16205) of Chapter 3 of Part 4 of Division 9 of the Welfare and
4 Institutions Code.

5 (2) To the extent that federal financial participation is obtained
6 pursuant to this section, expand the training provided pursuant to
7 Sections 903.7 and 903.8 of the Welfare and Institutions Code, to
8 include Kin-GAP caregivers and child welfare agencies. The
9 training provided shall include, at a minimum, any services or
10 supports for foster youth after they leave foster care or reach 18
11 years of age, including, but not limited to, the following:

12 (A) Medi-Cal services.

13 (B) Chafee education funds.

14 (C) Education and training vouchers.

15 (D) The Guardian Scholars Program.

16 (E) Services available to foster youth through the community
17 college system.

18 SEC. 10. If the Legislature enacts comprehensive legislation
19 to expand foster care support beyond 18 years of age, as authorized
20 by the federal Fostering Connections to Success and Increasing
21 Adoptions Act of 2008 (Public Law 110-351), former foster youth
22 who at 18 years of age decline to remain in foster care may reenter
23 foster care up to their 21st birthday or at a lower age between 18
24 and 21 years of age if set by the Legislature for post-age-18 support
25 services. This section shall be implemented to the extent permitted
26 by federal regulation.

27 SEC. 11. If the Commission on State Mandates determines
28 that this act contains costs mandated by the state, reimbursement
29 to local agencies and school districts for those costs shall be made
30 pursuant to Part 7 (commencing with Section 17500) of Division
31 4 of Title 2 of the Government Code.